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THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA Civil Action No. 5:04-01-96

MONITOR STUDIOS, LLC,)	()
, ,)	
Plaintiff,)	COMPLAINT
)	FOR COPYRIGHT
v.)	INFRINGEMENT UNDER
)	17 U.S.C. §§ 101 ET SEQ.,
ROSS REDDICK, a/k/a SIBE, a/k/a)	DAMAGES,
ALASKA; and JOHN DOES 1-10)	AND FOR INJUNCTIVE
,)	RELIEF
Defendants.)	
)	
)	

NOW COMES the Plaintiff, MONITOR STUDIOS, LLC, by and through their counsel of record, and complaining of Defendants, Ross Reddick and JOHN DOES 1-10, states and avers the following:

NATURE OF THE ACTION

1. This is an action for copyright infringement brought by an Internet business that provides original graphic artwork on the Internet against individuals who are using the Internet to illegally distribute unauthorized copies of Plaintiff's popular and commercial graphic artwork ("Plaintiff's Graphic Artwork"). Using sophisticated, new, high-speed technology, based on the use of an Internet Relay Chat ("IRC") channel that allows the downloading of large quantities of information in a very short period of time, each of the Defendants, concealing their identities by using aliases, has offered and continues to offer graphic artwork copyrighted by Plaintiff for free downloading by anyone in the world who accesses the Internet channel where Defendants' infringing activities are occurring. Such wholesale copying and distribution of this graphic artwork not only fosters the low or no-cost use of unauthorized copies of valuable graphic artwork, it undermines the legitimate market for Plaintiff's graphic artwork.

2. A fledgling industry in unauthorized copies of graphic artwork is emerging on the Internet. Because of the new, high-speed technology that allows the extremely quick transfer of huge amounts of data through cable modems and Digital Subscriber Lines ("DSL"), both of which Defendants are using to offer and deliver unauthorized copies of Plaintiff's Graphic Artworks over the Internet on "f-x-c.net" bit torrent site and via file transfer protocol ("FTP") from their own computers, Defendants' conduct and their proliferation of unauthorized copies threatens to become widespread. Its deleterious impact on the Internet graphic artwork market is obvious. To bring Defendants' illicit action to a halt, Plaintiff seeks an injunction against the Defendants' unauthorized copying and distribution of Plaintiff's Graphic Artwork, and damages for the infringements that have occurred to date.

PARTIES

- 3. Plaintiff Monitor Studios, LLC ("Monitor Studios") maintains its headquarters and principal place of business in Raleigh, North Carolina. It is a limited liability company organized under the laws of the State of North Carolina. Copyright registrations for Plaintiff's works being infringed by Defendants are annexed as Exhibit 1.
- 4. Defendant Ross Reddick resides at 5433 NW St. Helens Road, Portland, Oregon 97210 ("REDDICK"). He operates on-line on the "f-x-c.net" bit torrent site under the alias "Sibe" and "Alaska". In addition, Defendant REDDICK has used Direct Client to Client Protocol ("DCC") to transmit directly to users Plaintiff's Graphic Artwork that is copyrighted. DCC is an IRC protocol created to allow users to chat privately and to send and receive files directly instead of having to go through the IRC servers. DCC protects users from being monitored by IRC Server operators that have enabled conversation logging. It also allows much more efficient use of available bandwidth as the data does not need to be broadcast all over the

world just to reach a specific user. Defendant REDDICK has infringed the following copyrighted Plaintiffs' Graphic Artwork, as provided in Exhibit A.

- 5. Plaintiff is unaware of the true names and capacities of Defendants sued herein as DOES 1-10, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and therefore alleges that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's injuries as herein alleged were proximately caused by such Defendants. These fictitiously named Defendants, along with REDDICK, are herein referred to as "Defendants."
- 6. Upon information and belief, Defendants are acting in concert on the "f-x-c.net" bit torrent site by offering and exchanging unauthorized copies of Plaintiff's Graphic Artwork and causing, facilitating and inducing the infringing acts of others.

JURISDICTION AND VENUE

- 7. This Court has original and exclusive jurisdiction over this action for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338.
 - 8. Venue is proper in this Court under 28 U.S.C. § 1400(a).

FACTS COMMON TO ALL COUNTS

- I. The Internet Allows The Instantaneous Worldwide Reproduction And Transmission Of Verbatim Copies Of Plaintiffs' Business Software Products
- 9. The Internet is a worldwide network of millions of computers that has become a widely used means of global communication. Through the Internet, data, text, graphics, audio, and video information and recordings are quickly and routinely transmitted to nearly anyone

with access to a computer and a modem. Internet usage has become commonplace in businesses, schools and in millions of homes worldwide.

- 10. Information transferred over the Internet is sent in "digitized" form. This means that identical copies of virtually any type of information -- including graphic artwork -- can be reproduced and transmitted across the Internet. Once "uploaded" to the Internet (i.e., reproduced on a file server connected to the Internet), graphic artwork consisting of the same pictures that can (and should) be purchased through legitimate, authorized commercial websites can be "downloaded" by Internet users (i.e., reproduced onto and distributed to the users' computer) for use or further unauthorized copying and/or distribution.
- 11. Advancements in compression technologies, coupled with the proliferation of more user-friendly software to operate high-speed cable and DSL access to the Internet, have made it possible to distribute unauthorized copies of graphic artwork in intangible form via the Internet in volume, relatively quickly and efficiently and at virtually no cost. An IRC channel, such as the one Defendants use, is a multi-user communication system on which several persons can simultaneously participate in a discussion over a particular "channel," or even multiple channels. There is no restriction on the number of people who can participate, in "real time," in a given discussion, or the number of channels that can be formed over the IRC channel. Defendants are utilizing the new, high-speed technology and the atmosphere of easy communication provided by the IRC channel to make unauthorized transfers of graphic artwork via the Internet to an unlimited number of people. This transfer of graphic artwork occurs without Defendants having to set up or maintain Web sites; that makes Defendants' presence in cyberspace much more ephemeral than the average Internet infringer who posts unauthorized copies of copyrighted works to a Web site.

II. Piracy Of Copyrighted Graphic Artwork On The Internet

- 12. Unauthorized copying and distribution of works of intellectual property, such as graphic artwork, is becoming a pervasive problem on the Internet. The basic nature of the copyright infringement (i.e., unauthorized copying and distributing) is familiar; given the speed and ease of reproducing and widely distributing information on the Internet, however, the potential harm to copyright owners is exponentially greater than the threat posed by traditional acts of infringement.
- 13. The extensive misuse of the Internet for unlawful purposes is in part due to the nature of the medium. The ease with which information can be copied to and from Internet sites, the simplicity of efficiently downloading ever-larger files based on improved data compression technologies, and the relatively minor cost to a user of communicating with an audience of millions create unparalleled opportunities for copyright infringement. The relative anonymity with which Internet communications may be conducted further facilitates illegal conduct.
- 14. Unscrupulous Internet users can covertly copy and transmit to the Internet copyrighted graphic artwork (in which they have no rights and which they have no authority to copy or distribute) thereby making available to a worldwide audience, identical reproductions of copyrighted works that can be and are further copied, distributed and used by others in virtually unlimited, and entirely uncontrolled, fashion.
- 15. With the explosive growth of the Internet, the losses from this piracy may be dwarfed by the type of online piracy at issue in this case unless such acts of wholesale copying and distribution of copyrighted works is deterred by the courts, applying well-established principles of copyright law to infringing online conduct.

III. Defendants' Unlawful Online Copying And Distribution Of Plaintiffs' Products

- 16. Using the methods described above, the Defendants are using the "f-x-c.net" bit torrent site daily as a pipeline to provide "f-x-c.net" bit torrent site users with a vast number of different graphic artworks that are being copied and distributed, without authorization, to a potential market of millions of Internet users. By identifying their computers on the "f-x-c.net" bit torrent site as having "Bit Torrents," these Defendants, all of whom use aliases, indicate to other Internet users that their computers can be readily accessed to obtain and download whatever graphic artwork Defendants are making available on their "Bit Torrents." These graphic artworks are identified on the "f-x-c.net" bit torrent site by the website of origin and/or their file names.
- 17. Users of the "f-x-c.net" bit torrent site can download compressed computer files which contain Plaintiff's Graphic Artwork. The unauthorized copies of Plaintiff's Graphic Artwork available on the "f-x-c.net" bit torrent site are identical to the legitimate graphic artworks distributed commercially by Plaintiff.
- 18. Plaintiff has never authorized any of the Defendants to copy, offer and distribute any of Plaintiff's Graphic Artwork on the Internet.
- 19. Defendant REDDICK intentionally and knowingly accessed Plaintiff's protected computer and/or the protected computer of Plaintiff's agent without authorization, and caused damage to Plaintiff's computer.
- 20. Defendant REDDICK with the intent to defraud, accessed Plaintiff's protected computer and/or the protected computer of Plaintiff's agent without authorization, and obtained Plaintiff's Graphic Artwork worth in excess of \$5,000.00.

COUNT ONE (Copyright Infringement - 17 U.S.C. §§ 101 et seq.)

- 21. Paragraphs 1-20 above are realleged as if fully set forth herein.
- 22. Plaintiff is the owner of Plaintiff's Graphic Artwork and have the exclusive right to copy, distribute and transmit them in the United States. Plaintiff's Graphic Artworks are original works, copyrightable under the Copyright Act.
- 23. At all times relevant herein, Plaintiff has complied with the Copyright Act, 17 U.S.C. §§ 101, et seq., and has secured the exclusive rights and privileges in and to the copyrights in Plaintiff's Graphic Artwork.
- 24. Defendants have, without authorization from the Plaintiff copyright owner, copied, distributed, disseminated and/or otherwise exploited unauthorized copies of Plaintiff's Graphic Artwork on the Internet. Plaintiff has not licensed any of the Defendants to reproduce or distribute any of Plaintiff's Graphic Artwork in any manner whatsoever.
- 25. By posting unauthorized copies of Plaintiff's Graphic Artwork on the "f-x-c.net" bit torrent site, Defendants have actively engaged in, aided, encouraged materially, contributed to, and abetted the unauthorized copying and distribution of Plaintiff's Graphic Artwork by others.
- 26. Defendants' acts constitute direct and/or contributory infringements of Plaintiff's respective copyrights in Plaintiff's Graphic Artwork in violation of 17 U.S.C. §§ 101, et seq.
- 27. Upon information and belief, Defendants' infringements have been committed willfully, and have been and are being engaged in with total disregard for Plaintiff's intellectual property rights.
- 28. Defendants' direct and/or contributory copyright infringement has caused, and will continue to cause, Plaintiff to suffer substantial injuries, loss and damage to its exclusive

rights in Plaintiff's Graphic Artwork. The precise amount of Plaintiff's damages is difficult, if not impossible, to ascertain.

29. Defendants' direct and/or contributory copyright infringement, and the threat of continuing infringement, has caused, and will continue to cause, Plaintiff severe and irreparable injury. Plaintiff's remedy at law is inadequate to compensate it for the injuries already inflicted and further threatened by Defendants. Therefore, Defendants should be enjoined pursuant to 17 U.S.C. §§ 101, et seq.

COUNT TWO (Violation of the federal Computer Fraud and Abuse Act – 18 U.S.C. § 1030(a)(5),(g))

- 30. Paragraphs 1-29 above are realleged as if fully set forth herein.
- 31. By the actions alleged above, Defendant REDDICK intentionally and knowingly accessed Plaintiff's protected computer system, and knowingly caused the transmission of a program, information, code, or command, without authorization and/or in excess of authorized access.
- 32. By the actions alleged above, DEFENDANT REDDICK intentionally caused damages, without authorization, to Plaintiff's protected computer system, and the aggregate loss resulting therefrom exceeds at least \$5,000.00 in value.
- 33. Defendant REDDICKS' activity constitutes a violation of the federal Computer Fraud and Abuse Act, 18 U.S.C. §1030(a)(5), and Plaintiff is entitled to damages under that Act. Plaintiff is also entitled under the Act to injunctive and equitable relief against defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- 1. That the Court issue preliminary and permanent injunctions restraining Defendants their agents, servants, employees, representatives, successors, and assigns, and all other persons, firms or corporations acting in concert, privity or participation with them from:
 - a. reproducing, copying, duplicating, disseminating, publishing, transmitting, distributing, displaying, storing, uploading, downloading, offering or making available any unauthorized copies of Plaintiff's Graphic Artwork, in whole or in part. For the purposes of this Order, the prohibitions set forth in this paragraph shall include the placement of an unauthorized copy of any of Plaintiff's Graphic Artwork into a computer's hard drive or other storage device; scanning any of Plaintiff's Graphic Artwork; "uploading" a digital file containing any of Plaintiff's Graphic Artwork from the computer to a bulletin board system, chat room, IRC or other server; and "downloading" a digital file containing any of Plaintiff's Graphic Artwork from a bulletin board system, chat room, IRC, or other server to a computer;
 - b. Removing, disposing, discarding, transferring, modifying or deleting in any manner any computer software, computer hardware, or other data used in connection with the Defendants' copying of Plaintiff's Graphic Artwork, including but not limited to records, logs or other documents, in any media, that relate to or constitute the unauthorized copying, reproduction, duplication, dissemination or distribution of any of Plaintiff's Graphic Artwork or that reflect the identity of any persons to whom or from whom Defendants transmitted and/or obtained any unauthorized copies of Plaintiff's Graphic Artwork;
 - c. Assisting, aiding or abetting any other person or business entity from engaging in or performing any of the above-described acts;

- d. Making unauthorized use of Plaintiff's computers and computer systems;
- e. Making unauthorized use of Plaintiff's agents computers and computer systems.
- 2. That the Court issue an order requiring each of the Defendants to file with this Court and serve on Plaintiff within ten (10) days after service of the preliminary injunction, a report, in writing, under oath, setting forth in detail the manner and form in which the Defendants have complied with the preliminary injunction;
- 3. That the Court issue an Order impounding for the duration of this action any materials found to have been made or used by the Defendants in violation of Plaintiff's exclusive rights and that all such impounded materials be destroyed as part of a final judgment or decree pursuant to 17 U.S.C. § 503;
- 4. That Plaintiff be awarded its actual damages and/or a disgorgement of Defendants' profits, direct and indirect, for Defendants' copyright infringements in an amount to be determined at trial or in lieu thereof, should Plaintiff or any of them so elect, an award of statutory damages, pursuant to 17 U.S.C. § 504(c), against each Defendant, to be increased to the maximum permitted by law, for their acts of willful infringement;
- 5. That the Court issue an order requiring the Defendants to file with this Court and serve on Plaintiff within ten (10) days after service of the permanent injunction, a report, in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with the permanent injunction;
- 6. That the Court award Plaintiff its costs, including attorneys' fees, pursuant to 17 U.S.C. § 505; and

7. That the Court grant such other and further relief as it deems just and proper.

This the 10⁷¹⁴ day of December, 2004.

THE CONNOR LAW FIRM, PLLC

Gregory S. Cornor

NC State Bar No.: 22445

1515 W. NC Hwy. 54, Suite 240

Durham, NC 27707

Telephone: (919) 402-4337 Facsimile: (919) 408-0648

Counsel for Plaintiff

EXHIBIT A

MONITOR STUDIOS, LLC v. Ross Reddick, a/k/a SIBE, a/k/a ALASKA; and John Does 1-10.

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EXHIBIT A

MONITOR STUDIOS, LLC v. Ross Reddick, a/k/a SIBE, a/k/a ALASKA; and John Does 1-10.

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MONITOR STUDIOS, LLC v. Ross Reddick, a/k/a SIBE, a/k/a ALASKA; and John Does 1-10.

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17 U.S.C. § 506(e): Any person who knowingly makes a talse representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filled in connection with the application, shall be fined not more than \$2,500.

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<u>스트를 하고</u> , 이렇지만 많이 많는 이번, 한빛이 되면 결혼하는 이렇게 없다.	4. Restricted Delivery? (Extra Fee)
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